GOVERNMENT OF MYSORE

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT

Labour Dispute.—Industrial Dispute between the Workmen and the Management of the Indo-Norwegian Project Boat Building Yard, Karwar

Award of the Labour Court, Hubli—published.

Read the following papers :

(1) Letter No. 157/71-72, dated 3rd May 1971 from Sri W. K. Kulkarni, Presiding Officer, Labour Court Hubli.

BEFORE THE LABOUR COURT HUBLI.

Reference (I.D.) LCH Claim No. 2/ 1971.

Sri. W. K. Kulkarni, B.A., (HONS.), LL.B., *Presiding Officer.*
Dated 27th April 1971.

Workmen, their cause sponsored by the General Secretary Indo-Norwegian Project Boat Building Yard, Workers' Union Kajubag, Karwar. ... *Claiman,*

Vs.

The Management of the Indo-Norwegian Project Boat Building Yard, Karwar. ... *Respondent.*

1. This is a reference made by the State Government U/s 10 (1) (c) of the I. D. Act which will be, hereinafter, referred to, as the Act. The following points of dispute are referred by the State Government to this Court.

(1) Are the Workmen employed in the Indo-Norwegian Project Boat Building Yard, Karwar justified in demanding that they should be paid full wages for Second Saturdays and General Holidays when the Factory remains closed ? If not, to what other relief are the workmen entitled ?

(2) Are the workmen employed in the Indo-Norwegian Project Boat Building Yard, Karwar justified in demanding that they should be paid full wages for 24th and 25th January 1967 on which dates the Factory was closed ? If not, to what other relief are the workmen entitled ?

2. The facts leading to this dispute may be stated in brief as following :

3. The claimants are employed as workmen in the Indo-Norwegian Project Boat Building Yard. Karwar. This Industry was owned and run formerly by the Government of Mysore. But, from 1st January 1971 a Corporation is brought into existence called " Mysore State Fisher Corporation Limited" and this corporation is owning and running this Project since 1st January 1971. The policy of the State Government was to develop the fisheries Industry on the sea cost of Karwar. Many fishermen catch fish from the Ocean. For that purpose the Fishermen use certain type of Boats and these Boats were being constructed by the State Government with the help of the Norwegian Government under a project called Indo-Norwegian Project. The claimants were employed, some as Mechanics and others as Carpenters in the said Project for building of the Boats. Besides the claimants, there were some other employees in this Industry. They were permanent employees of the State Government, governed by the Mysore Civil Service Rules. But the claimants were engaged only on the basis of daily wages. To supervise these daily wage employees, the Government did required some permanent staff and also some Office staff. So this permanent staff and office Staff was employed permanently by the Government. They were governed by Mysore Civil Service Rules. As stated by N. M. Jadde MW-1, this permanent staff consisted of only 15 persons. The rest were only employed on the basis of daily wages. The Project appears to have been launched by the Government some time 1959-69. Every year the Government publishes a list of General Holidays and Holidays of Second Saturdays for the Government servants . Accordingly lists were published by the Governments for 1967, 1968 and 1969. During all these 3 years and also even before and after, the Boat building Factory used to be kept closed on all the General Holidays and Second Saturdays. However only these 15 permanent employees were paid the salary covering the General Holidays and Second Saturdays. But the employees on daily wages were paid only for the 7 National and Festival Holidays and for the rest of the General Holidays and for a Second Saturdays they were not given any wages. They demanded wages on those days also from the Management namely the State Government which refused. So there were conciliation Proceedings held by the Labour Officer but they were futile and thereafter this reference has been made by the State Government.

4. The contention of the claimant is that they are entitled to the wages on all the General Holidays and also Second Saturdays. They are claiming these wages for the past period and also in future. This is covered by the first point of the reference. The Respondent Management on the other hand maintains that the workers who are employed on daily wages are not governed by the Mysore Civil Service Rule. So under the various Labour enactments they are entitled to wages only on 7 National and Festival Holidays which they have been paid, and for the rest of the holidays and Second Saturdays the workers on daily wages are not entitled to any wages. Several other contentions also have been taken in its written statement by the Management. But I need not refer to them. The claim statement is filed on behalf of the workers one Santan Dayas is examined as WW-1 and on behalf of the Respondent Sri N. M. Jadde who is the Superintendent of Fisheries Mechanisation, is examined as MW-1. I have heard Sri S. V. Pikale, General Secretary of the Workers, Union and Sri Bhagwat for the Management. In my opinion the claimants are not governed by Mysore Civil Service Rules. They were employed by the Government only on the basis of daily wages. Every person employed by the Government is not necessarily governed by Mysore Civil Service Rules. It is open to the Government particularly when it is running an Industry, to employ workers on the basis of daily wages and they will not be governed by Mysore Civil Service Rules. To Supervise these daily wage earners, there may be some permanent staff which the Government may treat as its permanent servant and hence governed by Mysore Civil Service Rules. In the case of claimants who were employed either as Carpenters or as Mechanics on daily wages, there is no question of Mysore Civil Service Rules governing them. There was no order of appointment even in their case. Thus these workers will be governed only by Labour Laws and not by Mysore Civil Service Rules. Merely because 15 permanent emeloyees in this Industry were governed by Mysore Civil Service Rules it does not mean that the rest of workers were also governed by Mysore Civil Service Rules. Thus these daily wage earners can not claim wages on all General Holidays and Second Saturdays. They can claim wages only on 7 National and Festival Holidays they have given. It is true that the factory used to be kept closed and it is being kept closed even now on all the General Holidays and Second Saturdays, so that the daily rated workers can not work in their factory, on those days. For the sake of 15 workers who were governed by Mysore Civil

Service Rules, the rest of the workers were not given any work on General Holidays and Second Saturdays and the factory used to be kept closed. But no record has been placed before me to show nor is any oral evidence led before me to show that on General Holidays other than 7 National and Festival Holidays and Second Saturdays, the daily rated workers offered to work, if those holidays were to be without wages. They were happy with the holidays and still they persisted in claiming wages on those days, to which they are not entitled in law. As I said their right to wages is only on 7 National and Festival Holidays and no other holidays. So I do not think that the claimants can claim wages on all the General Holidays and Second Saturdays that were declared hereto before. If the workers had shown their willingness to work on those days by issuing a notice to the Management then perhaps their claim could have been considered. But they have not done any such thing. As I said their attitude perhaps was that they wanted all General Holidays and at the same time-wages.

5. I think that if the workers in future are prepared to work on General Holidays other than 7 National and Festival Holidays and Second Saturdays, the Management should provide them with work. When I asked Sri N. M. Jadde in this behalf this is what he stated "I do not see any difficulty in the Management giving work to all the workers on daily wages on Second Saturday and General Holidays other than 7 National and Festival Holidays, excepting that the permanent staff will have to be paid special pay for working on those days. All the permanent staff need not work on those days. But some technical staff must work on those days and they will have to be paid special pay." Thus according to the evidence of the Management itself, it will not be difficult to keep the factory open for work on General Holidays other than 7 National and Festival Holidays and on Second Saturdays. Now that a Corporation is formed, that Government servants working in the Corporation will be "On Other Duty" They can be compensated by giving a special pay or O. O. D. allowance even if some of them are required to work in the Industry on General Holidays other then 7 National and Festival Holidays and on Second Saturdays.

6. To-day on behalf of the workers a Memo is filed before me. In that they state that in the event the Management proposes to keep the Industry onen on General Holidays and Second Satur-

days, the workmen will not refuse to work on such Holidays and Second Saturdays. Of course they also say in this memo that the workmen never refused to work on General Holidays and on Second Saturdays in the past. But as I stated earlier they never issued a notice in writing to the Management stating that they were willing to work on General Holidays if their wages were to be with held otherwise. Their attitude appears to have been of being pleased with the Holidays and at the same time asking for wages. Now that they have shown their willingness to work on General Holidays by filing this memo, I give suitable directions in my award below.

7. Then the second point of reference is regarding two days of N. G. Os. strike on 24th and 25th January 1967. Obviously the factory was not closed on these two days. However the supervisory staff which consisted of N. G. Os. remained absent and so no muster rolls were filled in and one does not know whether any daily rated worker attended to his work in the Factory on those two days or not. However no wages were given to the daily rated workers on those two days and they are demanding the same. Sri Jadde MW. 1 is not in a position to say whether the daily rated workers worked on that day or not. At any rate it is certain that the Management did not notify that the factory was closed on those two days. So the Management is bound to pay wages on those two days. If the muster rolls could not have been filled by the absence of NGOs., the workers cannot suffer on that account. I therefore hold that the workers are entitled to wages on those two days.

8. Then a point has been made out on behalf of the workers that the factory being kept closed on Second Saturdays and General Holidays, some of them could not complete 240 days work in a year and could not earn the statutory leave under the Factory's Act. There is not much force in this contention. There will be 52 weekly holidays in a year besides 12 second Saturdays and about 10 General Holidays, besides 7 National and Festival Holidays. So even assuming that the factory remained closed on all the General Holidays, weekly holidays and Second Saturdays still the working days would be about 290 days. So they could complete 240 days work in a year. In the result I pass the following AWARD.

AWARD.

1. The workmen employed in the Indo Norwegian Project Boat Building Yard, Karwar are not entitled to any wages for Second Saturdays and General Holidays when the Factory remained closed so far. However in future if the workers intimate their willingness in writing to the Management to work in the Factory on the General Holidays other than 7 National and Festival Holidays and on Second Saturdays, they should be provided with work by the Management which should also pay their wages on those days. This will come into effect after one month of the publication of this AWARD in the Government Gazette.

2. The Management should pay to the workers their wages on 24th and 25th January 1967. There will be no order as to costs of this proceeding.

W. K. KULKARNI,
Presiding Officer, Labour Court,
Hubli.

ORDER

Bangalore, dated 18th May 1971.

S. O. 1004.—WHEREAS by State Government Order No. FCL 861 LLD 69, dated 29th January 1971 the Industrial Dispute between the Workmen and the Management of the Indo-Norwegian Project Boat Building Yard, Karwar was referred to the Labour Court, Hubli for adjudication;

AND WHEREAS the Labour Court has submitted to the State Government its award in respect of the said Industrial Dispute.

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette*.

[No. FCL 57 LLA 71.]

By Order and in the name of the President of India,

ANIRUDHA DESAI,
Under Secretary to Government,
Food, Civil Supplies and Labour Department.